



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.15129 of 2019 and
WMP.Nos.15113 & 20881 of 2019

P.Narayanappa

...Petitioner

Vs

- 1.The Member Secretary,
State Level Environment Impact Assessment Authority,
No.1, Jennis Road, 3rd Floor,
Panagal Maaligai, Saidapet, Chennai-15.
- 2.The Superintending Engineer/Member Secretary,
Assessment Committee, Public Works Department,
Planning and Designs (Buildings) Circle,
Chepauk, Chennai-5.
- 3.The Executive Engineer, PWD/WRD,
Mining and Monitoring Division, Trichy-20.
- 4.The Executive Engineer, PWD/WRD,
Melpennaiyaru Lower Basin, Dharmapuri-5.
- 5.The Executive Engineer,
Tamilnadu Govt. Buildings Research Station,
Taramani, Chennai-600 113.
- 6.The District Collector,
Krishnagiri District.
- 7.The Deputy Director of Mines,
Krishnagiri - 635 001.
- 8.The District Forest Officer,
Mathigiri - 635 110, Hosur,
Krishnagiri District.
- 9.The Regional Transport Officer,
HCF Post, Hosur- 635 126,
Krishnagiri District.



10.B.Radhakrishnan

11.The Principal Secretary to Govt.,
Environment & Forest Dept.,
Fort St. George, Chennai-600 009.

12.The Joint Chief Environmental Engineer,
TNPCB, Auxilium College Road,
Gandhi Nagar, Vellore-632 006. ... Respondents
(R11 & R12 impleaded by this Court on 07.03.2022
in WMP.No.20881 of 2019 in WP.15129 of 2019)

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent Nos.1 to 9 to take necessary penal action against the 10th respondent's illegal and unauthorized M Sand unit namely Sri Krishna M Sand, situated in Survey No.262/1, Kathirapalli Village, Aloor Panchayat, Hosur Taluk, Krishnagiri District and prohibit the same permanently in any manner of production and selling of the M Sand in the above said locality.

For Petitioner : Mr.Sundaravadanam .T

For Respondents : Mr.B.Vijay (for R2 to R9)
Additional Government Pleader

Mr.K.Govi Ganesan (for R10)

Mrs.Geetha Thamaraiselvan (for R11)
Special Government Pleader

Ms.Shanmugavalli Sekar (for R12)

O R D E R

Heard Mr.T.Sundaravadanam, learned counsel appearing for the petitioner, Mr.B.Vijay, learned Additional Government Pleader for R2 to R9, Mr.Govi Ganesan, learned counsel for R10, Mrs.Geetha Thamaraiselvan, learned Special Government Pleader for R11 and Ms.Shanmugavalli Sekar, learned counsel for R12.

2.The petitioner was directed to implead the Tamil Nadu Pollution Control Board as early as on 30.05.2019. WMP.No.20881 of 2019 has come to be filed in which notice was ordered, including private notice on 04.03.2021. The report of the Registry is that there is no proof of service.

3.Be that as it may, since the proposed respondents were served prior to filing of the impleading application, Ms.Shanmugavalli Sekar, learned counsel appears for 12th



respondent/the Joint Chief Environmental Engineer. Mrs.Geetha Thamaraiselvan, learned Special Government Pleader appears for R11. WMP.No.20881 of 2019 has filed to implead the proposed Respondent Nos.11 and 12 as Respondent 11 and 12 in WP.No.15129 of 2019 is ordered.

4.Coming to the merits, the petitioner seeks a mandamus directing respondents 1 to 9 to take necessary penal action as against the action of the 10th respondent for illegal and unauthorised running of an M.Sand unit at Survey No.262/1, Kathirapalli Village, Aloor Panchayat, Hosur Taluk, Krishnagiri District and seeking a prohibition permanently, from in any manner, producing and selling M.Sand.

5.The petitioner relies solely on a communication issued by the Tamil Nadu Arasu Buildings Research Station dated 25.04.2019 wherein, after informing the petitioner that the Public Works Department (PWD) has no role to play in the approval for the running of quarry, crusher or M.Sand plant, the Research station states that PWD has not granted approval for the venture.

6.However, other authorities have granted statutory approvals for running of the plant in the location in question, including the Pollution Control Board (Board). In fact, the consent obtained by the Board is as early as on 13.03.2017, even prior to the filing of the writ petition.

7.As per order dated 31.03.2021, the Board has renewed the approval granted initially. That apart, in the counter filed by the District Collector, he confirms that R10 has complied with the Storage of Minerals under Tamil Nadu Prevention of Illegal Mining Transportation and Storage of Minerals and Mineral Dealers Rules 2011 / and holds a valid stockyard licence, apart from other required statutory clearances.

8.To ascertain the veracity of the grievances expressed by the petitioner, this Court had directed that the Pollution Control Board carry out an inspection and file a detailed report enclosing photographs. This has been done today and a Report of R12 dated 21.02.2022 is on file also containing photographs that does not indicate anything untoward. The Report is extracted below:-

'The unit of M/s. Sri Krishna M sand located at SF No. 262/1, Alur village, Hosur Taluk, Krishnagiri District is an existing M Sand Manufacturing unit.

The manufacturing process of the unit consists of receipt of stone jelly from the stone crushers, feeding into surge hopper and then to VSI crusher for crushing the stones, crushed material is taken to vibratory screen for screening, screened sand is taken to water



WEB COPY

washer machine for carrying out the washing activity to segregate through screen and obtain the oversized 3.5 mm size sand by screw conveyor which is called as M-Sand used for construction and concreting activity. The screened sand in the screen of 2.5 mm size is collected separately which is called as P-sand used for plastering purposes of construction activity. The fine sand of less than 1 mm size is taken along with water and collected in Settling Tanks. The supernatant water in the settling tanks is recycled back for the washing activity and the settled fine sand is removed from the tanks and disposed to hollow/solid block manufacturers.

The unit has obtained for Consent to operate from the Board vide under the Water (P&CP) Act, 1974 as amended and Air (P&CP) Act, 1981 as amended vide Proc. No. F.1167HSR/OS/DEE/TNPCB/HSR/W&A/2017 dated: 13/03/2017 (Enclosed vide Annexure-1) to manufacture the Product M sand- 3600 T/Day and By product of Crushed Rock Fine (CRF)- 360 T/Day and for discharge of sewage - 0.65 KLD and effluent 12 KLD with validity upto 31.03.2021 and subsequently renewed the consent to operate of the Board vide Proc. Dated 24.04.2021 (Copy enclosed vide Annexure-2) with the validity upto 31.03.2031.

Under the Water (P&CP) Act, 1974 as amended, consent was issued subject to the certain conditions and along with the following special condition that the unit. shall treat the washing effluent in the settling tanks provided and ensure that it is completely reused back in to the process.

Under the Air (P&CP) Act, 1981 as amended, consent was issued subject to the certain conditions and along with the following special condition that the unit shall operate and maintain the Air Pollution Control measures (APC) provided such as MS sheet enclosures with water sprinklers to arrest dust emission efficiently and continuously so as to satisfy the standards prescribed by the Board.

In continuation of the Board's memo dated: 17.02.2022 the unit was inspected on 21.02.2022 and the present status of the unit as given below:

a. The unit was found under operation within the consented production capacity.

b. Sewage generated from the unit is being treated and disposed through septic tank followed by the soak pit arrangements.

c. The unit has maintained the Effluent treatment plant consisting of collection cum settling tanks - 2 Nos. and treated effluent sump-1 No. to treat and recycle back the treated effluent into the process.



WEB COPY

d. There is no discharge of trade effluent into outside the premises and the entire treated effluent is being recycled back to the sand washing process.

e. The unit has installed all the process machinery's (Feed bunker, Vertical Shaft Impactor (VSI), material conveyors and Vibratory Screens etc..) within closed shed and no possibility of dust emanation into outside the premises.

f. The Air Pollution Control (APC) measures provided along with water sprinklers in the unit were also under operation to arrest the dust emission. No dust emission was noticed in and around the premises due to the operation of the unit.

g. It was informed by the proprietor of the unit, that the APC measures are being effectively operated along with water sprinklers in the unit to arrest the dust emission at all times.

h. The unit was strictly instructed to operate and maintain the APC measures efficiently and continuously so that there shall not be any complaint from the nearby public regarding dust emission.

i. Further, It was observed that the complainant Thiru.B.Narayanappa's land is located at about more than 200 m from the M sand unit and was found free from the dust and no deposition of dust was noticed in the complainant's lands.

j. The unit has obtained certificate of product quality approval for the manufacturing and sale of crushed Stone sand for plastering (commercially called as P sand) from the PWD, Govt. of Tamilnadu vide certificate approval No. PWD/CSSMU-N-045-P/71 ASC/2020 dated 16.09.2020 (copy enclosed vide Annexure-3) with validity upto 16.09.2021 and now they have applied for renewal which is under process.

k. The unit have submitted a copy of the letter (enclosed vide Annexure 3) addressed from PWD to the complainant stating that the M/s. Sri Krishna M sand is not drawing water from the Thenpennaiyar River and not discharging any effluent into the river.

l. Compliance status on the conditions imposed in the first consent to operate orders and latest Renewal consent to operate orders are enclosed vide Annexure-4.

m. Site photographs taken during inspection enclosed as Annexure-5.'

9.The petitioner maintains that the report of the statutory authority is not correct and that his grievances continue. I am unable to appreciate this instance as, in my considered view, the petitioner is engaging in a fishing and roving explanation, as prima facie, R10 appears to have necessary statutory approvals.



10. R10 however, expressed no objection to the disposal of representation made by the petitioner before the Commissioner of Revenue Administration, who has not been arrayed as a respondent before me. In any event, this communication is of no avail to the petitioner since what the Commissioner is done is to forward the complaints of the petitioner to the District Collector for redressal.

11. In light of counter dated 24.02.2022, filed by the District Collector, extracted below, reliance upon document dated 25.04.2019 does not assist the petitioner in any way:-

'3. With regard to Para 2 & 3 of the affidavit, it is submitted that, the 10th respondent Thiru. B. Radhakrishnan has operated Tvl. Sri Krishna M. Sand Unit in S.F.No.262/1 of Alur village, Hosur Taluk, Krishnagiri District with a consent to operate issued by the Tamil Nadu Pollution Control Board Hosur vide proceedings No.F.1167HSR/OS/DEE/TNPCB/HSR/A/2017 dated 13.03.2017 and subsequently renewed vide proceedings No.F.1167HSR/OS/DEE/TNPCB/HSR/A/2021 dated 24.04.2021 with a validity upto 31.03.2031. The District Environmental Engineer, TNPCB, Hosur vide letter dated 22.07.2019 has submitted a report stating that the subject unit has fenced with steel sheets on all the sides including the top portion of the unit. Further, they have carried out M.Sand unit operations by taking air pollution control measures, water sprinkler and covered with wind net. During inspection they have been instructed to maintain the pollution control measures properly. The Tahsildar, Hosur vide letter dated 18.02.2022 has inspected the subject area and submitted report. The Revenue Divisional Officer, Hosur has also inspected the subject area and reported that M/s. Sri Krishna M Sand unit situated in S.F.No.262/1&2 stands registered in the name of Thiru. B. Radhakrishnan vide chitta No.886 and 205 of Aur Village. Further they have valid mineral stock yard license issued by the District Collector for the period ending 21.04.2031 and consent to operate issued by the Pollution Control Board for the period ending 31.03.2031. They have also obtained quality certificate from the PWD vide approval dated 16.09.2020. They have operated the M.sand unit as per norms and on enquiry with the village public it reveals that no illicit quarrying is carried out by the unit holder. Further, the agricultural land belongs to Tmt. Saraswathi W/o. Narayanappa and two others in S.F.No.250 of Alur village is situated 400 meters away from the subject area. Finally, the Revenue Divisional Officer, Hosur



WEB COPY

had stated that objection raised on the representation of the petitioner that the 10th respondent has running the unit illegally is not acceptable one.

4. With regard to Para 4, 5, 6 & 7 of the affidavit, it is submitted that, the Assistant Geologist O/o. the Deputy Director of Geology and Mining, Krishnagiri has also inspected the subject area on 17.02.2022 and reported that there is no illegal quarrying noticed in the nearby area. Further, the water course is running 50 meters away from the subject area on the northern side and river is flowing 300 meters away from the subject area on the western side. Further, Tvl. Sri Krishna M. Sand Unit is having valid stock yard license issued by the District Collector vide Registration No. TN-KGI-11/258/2021/crusher dt:22.04.2021 for a period of 10 years in S.F.Nos.262/1 and 262/2 of Alur Village for the storage of minerals under Tamil Nadu Prevention of Illegal Mining Transportation and Storage of Minerals and Mineral Dealers Rules 2011. They have brought the jelly material from the licensed stock yard of M/s. Sri Lakshmi Venkateswara crusher unit situated in B.S. Thimmasandiram village and granted registration vide Registration No. TN-KGI-11/259/2021/crusher dt:25.04.2021 for a period of 10 years. Further, as per the available records they have also obtained quality certificate issued by the Public Works Department, Planning and Design circle (Buildings), Chennai vide approval No. PWD/ CSSMU-N-045-P/71/ASC/2020 dated 16.09.2020. Hence, the contention of the petitioner that the 10th respondent operating the unit without obtaining necessary permission cannot be countenanced.'

12. This writ petition is dismissed. Though I am inclined to impose a cost upon the petitioner for initiating what appears to be frivolous litigation, but I desist, in light of the pleas of learned counsel. Connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

vs



To

1.The Member Secretary,
State Level Environment Impact Assessment Authority,
No.1, Jennis Road, 3rd Floor,
Panagal Maaligai, Saidapet, Chennai-15.

2.The Superintending Engineer/Member Secretary,
Assessment Committee, Public Works Department,
Planning and Designs (Buildings) Circle,
Chepauk, Chennai-5.

3.The Executive Engineer, PWD/WRD,
Mining and Monitoring Division, Trichy-20.

4.The Executive Engineer, PWD/WRD,
Melpennaiyaru Lower Basin, Dharmapuri-5.

5.The Executive Engineer,
Tamilnadu Govt. Buildings Research Station,
Taramani, Chennai-600 113.

6.The District Collector, Krishnagiri District.

7.The Deputy Director of Mines,
Krishnagiri - 635 001.

8.The District Forest Officer,
Mathigiri - 635 110, Hosur,
Krishnagiri District.

9.The Regional Transport Officer,
HCF Post, Hosur- 635 126,
Krishnagiri District.

10.The Principal Secretary to Govt.,
Environment & Forest Dept.,
Fort St. George, Chennai-600 009.

11.The Joint Chief Environmental Engineer,
TNPCB, Auxilium College Road,
Gandhi Nagar, Vellore-632 006.

+1cc to Mr.T.Sundaravadanam, Advocate SR.No.15366

+1cc to Mr.K.Govi Ganesan, Advocate SR.No.15159

+1cc to Ms.Shanmugavalli Sekar, Advocate SR.No.15156

+1cc to Government Pleader SR.No.15899

W.P.No.15129 of 2019 and
WMP.Nos.15113 & 20881 of 2019

MT (CO)

GMV (22/04/2022)